



ATTENTION

Probate cases on this calendar are currently under review by the probate examiners. Review of some probate cases may not be completed and therefore have not been posted.

If your probate case has not been posted please check back again later.

Thank you for your patience.

Petition for Removal of Mary M. Davis as Executor of Estate Compelling Account and Report of Administration of Estate Appointment of Lynette Lucille Duston and Warren Leslie Davis as Successor Co-Executors of Estate, Removal of Mary M. Davis as Trustee of The Testamentary Trusts, Compelling Account and Report information Regarding the Testamentary Trusts and Appointment of Warren Leslie Davis as Successor Trustee of the Testamentary Trust [Prob. C. 8420, 8421, 8500, 8501, 8502, 8800, 8804, 10950, 10952, 12200, 12204, 12205, 15642, 15645, 15660, 15680, 16420 and 17200(b)]

| | | | |
|---------------------------|---------------|--|--|
| DOD: 7-9-10 | | WARREN LESLIE DAVIS , Son, is Petitioner. | NEEDS/PROBLEMS/COMMENTS: |
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| | | MARY M. DAVIS , Surviving Spouse, was appointed Executor with Full IAEA without bond on 10-18-10. | OFF CALENDAR – Amended Petition filed 9-7-12 is set for hearing on 11-7-12. |
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| Cont. from 080812, 082912 | | Petitioner states more than 18 months have elapsed since the issuance of Letters and Mary has neither filed an account nor a status report. Petitioner objects to the continuation of Mary as personal representative of the estate and seeks to remove her pursuant to Probate Code §§ 8502, 8804 for the following reasons: | Note: Inventory and Appraisal and First Account are overdue. The original petition estimated the value of the estate at approx. \$3,060,000.00. |
| | Aff.Sub.Wit. | | |
| ✓ | Verified | <ul style="list-style-type: none">Mary has wrongfully neglected the estate and has long neglected to perform any act as personal representative.Mary has failed to file an inventory and appraisal.Mary has wasted, embezzled, mismanaged, and committed a fraud on the estate. Mary has, <i>inter alia</i>, admitted during a deposition that she has liquidated assets of the Decedent's estate, which were specific bequests to one of the petitioners to pay for her attorney's fees and costs in her two civil actions against Petitioner. (See declaration of Alicia Wrest attached.)Mary is incapable of properly executing the duties of the office. Mary is 86 years old and has made unsubstantiated claims for elder abuse in a pending case against one of the beneficiaries and has therein made representations that she is susceptible to undue influence.The Court has the power to remove a personal representative for other cause such as adverse interest or hostile acts. Cites referenced.Removal is necessary to protect the estate and its heirs. Mary should also be ordered to account and show the condition of the estate.Furthermore it is proper for the Court to reduce Mary's and her attorneys' compensation. | <ol style="list-style-type: none">Petitioner seeks to have his mother removed as both Executor of this estate <u>and</u> as trustee of the testamentary trusts created under Decedent's will. However, any requests regarding the trusts must be brought separately under appropriate code and pursuant to Local Rule 7.1.2.Petitioner states Mary currently has two (2) pending actions against beneficiaries involving trust property. Need clarification as to how <u>any</u> property is trust property, as no account or final distribution has been made from this estate to any trust. |
| | Inventory | | |
| | PTC | Examiner notes that Court records indicate one case has been dismissed and the other was stayed pending arbitration in June 2012. See additional notes on additional page. | |
| | Not.Cred. | | Reviewed by: skc |
| ✓ | Notice of Hrg | Reviewed on: 9-12-12 | |
| ✓ | Aff.Mail | | Updates: |
| | Aff.Pub. | Recommendation: | |
| | Sp.Ntc. | | File 1A - Davis |
| ✓ | Pers.Serv. | | |
| | Conf. Screen | | |
| | Letters | | |
| | Duties/Supp | | |
| ✓ | Objections | | |
| | Video Receipt | | |
| | CI Report | | |
| | 9202 | | |
| ✓ | Order | | |
| | Aff. Posting | | |
| | Status Rpt | | |
| | UCCJEA | | |
| ✓ | Citation | | |
| | FTB Notice | | |

SEE ADDITIONAL PAGES

Petitioner states he and his sister LYNETTE LUCILLE DUSTON are nominated as successor co-executors in Decedent's will. Petitioner requests that they be appointed as successor co-executors to serve with full IAEA without bond.

Petitioner further states that Mary M. Davis is the nominated trustee of the testamentary trusts created under the will. Petitioner objects to the continuation of Mary as trustee of the testamentary trusts and hereby seeks to remove her as trustee because she has breached the trusts, is insolvent and unfit to administer the trusts. Petitioner provides a list of reasons with reference to Probate Code §§ 16060-16062 and §§ 16002-16009.

Examiner's note: As noted in NEEDS/PROBLEMS/COMMENTS #1 above, trust issues cannot be addressed together with estate issues in this estate case. Pursuant to Local Rule 7.1.2, a separate matter must be established. As such, Examiner has not reviewed the sections relating to the request for removal of Mary as trustee.

Petitioner prays as follows:

1. That citation issue to Mary M. Davis to show cause why she should not be removed as personal representative and as trustee of the testamentary trusts;
2. For an order to remove Mary M. Davis as personal representative and revoke her Letters;
3. For an order to appoint Petitioner and Lynette Lucille Duston as personal representatives of the estate with full IAEA without bond;
4. For an order for Mary M. Davis to file an account within 60 days of her removal;
5. For an order that Mary M. Davis surrender all estate property in her possession to the successor co-executors;
6. To remove Mary M. Davis as trustee of the testamentary trusts;
7. To appoint Petitioner or any suitable person as successor trustee;
8. For an order that Mary M. Davis make an accounting and surrender all property in her possession belonging to the testamentary trust to a duly qualified successor trustee;
9. For attorney's fees and costs of suit incurred herein;
10. For such other orders and further relief as the Court deems just and proper.

Mary M. Davis filed a Demurrer that is set for hearing on 9-19-12 on the following grounds:

1. There is a defect or misjoinder of parties;
2. It fails to state facts sufficient to support any cause of action for removal; and
3. It is uncertain, including ambiguous and unintelligible.

Points and Authorities provided.

Objector also filed an Objection to the Declaration of Alicia D. Wrest in support of the Petition is hearsay and inadmissible herein. Cites provided.

Note: The parties reference "unrelated litigation" involving allegations of elder abuse and influence:

- **11CECG00872** Mary M. Davis v. Lynette Lucille Dustin and Douglas Jon Dustin - Dismissed per request of Mary M. Davis on 7-26-12 per Court records
- **11CECG03047** Mary M. Davis v. W. Leslie Davis – Matter stayed due to pending arbitration per Court records.

(1) Petition for Final Distribution on Waiver of Accounting, and for (2) Allowance of Statutory Attorney's Fees, Extraordinary Attorneys' Fees, and Costs of Administration

| | | | | | |
|---------------|---------------|---|--|--|--|
| DOD: 09/13/11 | | TERI LYNN GRAHAM and SANDI LYNN GRAHAM , Co-Executors, are Petitioners. | | NEEDS/PROBLEMS/COMMENTS: | |
| | | Accounting is waived. | | 1. The statutory fee to the attorney is calculated incorrectly in the Petition. The correct statutory fee is \$7,392.02 calculated as follows: | |
| Cont. from | | I & A - \$214,000.86 | | \$100,000.00 4.0% = \$4,000.00 | |
| | Aff.Sub.Wit. | POH - \$137,296.07 | | \$100,000.00 3.0% = \$3,000.00 | |
| ✓ | Verified | (\$135,356.07 is cash) | | \$19,600.86 2.0% = \$392.02 | |
| ✓ | Inventory | Executors - waive | | \$0.00 1.0% = \$0.00 | |
| ✓ | PTC | Attorney - \$7,588.02 (statutory) | | \$0.00 0.5% = \$0.00 | |
| ✓ | Not.Cred. | Attorney x/o - \$1,000.00 (for sale of real property, ok per Local Rule) | | \$0.00 \$0.00 | |
| ✓ | Notice of Hrg | Costs - \$1,236.50 (filing fees, certified copies, publication) | | \$7,392.02 | |
| ✓ | Aff.Mail | Distribution, pursuant to decedent's Will, is to: | | 2. Order does not state the dollar amount to be distributed to each beneficiary. Pursuant to Local Rule 7.6.1A - All orders or decrees in probate matters must be complete in themselves. Orders shall set forth all matters ruled on by the court, the relief granted, and the names of persons, descriptions of property and/or amounts of money affected with the same particularity required of judgments in general civil matters. <u>Monetary distributions must be stated in dollars, and not as a percentage of the estate.</u> | |
| | Aff.Pub. | Teri L. Graham - 50% of cash and ½ of gun collection | | Need revised Order. | |
| | Sp.Ntc. | Sandi Lynn Graham - 50% of cash and ½ of gun collection | | | |
| | Pers.Serv. | | | | |
| | Conf. Screen | | | | |
| | Letters | 11/30/11 | | | |
| | Duties/Supp | | | | |
| | Objections | | | | |
| | Video Receipt | | | | |
| | CI Report | | | | |
| ✓ | 9202 | | | | |
| ✓ | Order | | | | |
| | Aff. Posting | | | | |
| | Status Rpt | | | | |
| | UCCJEA | | | | |
| | Citation | | | | |
| ✓ | FTB Notice | | | | |
| | | | | Reviewed by: JF | |
| | | | | Reviewed on: 09/12/12 | |
| | | | | Updates: | |
| | | | | Recommendation: | |
| | | | | File 2 - Graham | |

Final Petition and Petition for Settlement Thereof and Petition for Distribution

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|-------------------------------------|------------------------|--|---------------------------------|
| DOD: 10-11-08 | | RODNEY D. STARR , Son and Executor with Full IAEA without bond, is Petitioner. Accounting is waived. I&A: \$187,500.00 POH: \$187,500.00 (real property interest only) Executor (Statutory): Waived Attorney (Statutory): \$6,625.00 Costs: \$999.50 (filing fees, publication, certified letters) Distribution pursuant to Decedent's will: Starr Family Revocable Trust: entire estate (real property interest) | NEEDS/PROBLEMS/COMMENTS: |
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| <input type="checkbox"/> | Aff.Sub.Wit. | | |
| <input checked="" type="checkbox"/> | Verified | | |
| <input checked="" type="checkbox"/> | Inventory | | |
| <input checked="" type="checkbox"/> | PTC | | |
| <input checked="" type="checkbox"/> | Not.Cred. | | |
| <input checked="" type="checkbox"/> | Notice of Hrg | | |
| <input checked="" type="checkbox"/> | Aff.Mail w | | |
| <input type="checkbox"/> | Aff.Pub. | | |
| <input type="checkbox"/> | Sp.Ntc. | | |
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| <input type="checkbox"/> | Conf. Screen | | |
| <input checked="" type="checkbox"/> | Letters 1-11-12 | | |
| <input type="checkbox"/> | Duties/Supp | | |
| <input type="checkbox"/> | Objections | | |
| <input type="checkbox"/> | Video Receipt | | |
| <input type="checkbox"/> | CI Report | | |
| <input checked="" type="checkbox"/> | 9202 | | |
| <input checked="" type="checkbox"/> | Order | | |
| <input type="checkbox"/> | Aff. Posting | | |
| <input type="checkbox"/> | Status Rpt | | |
| <input type="checkbox"/> | UCCJEA | | |
| <input type="checkbox"/> | Citation | | |
| <input checked="" type="checkbox"/> | FTB Notice | | |
| | | Reviewed by: skc | |
| | | Reviewed on: 9-12-12 | |
| | | Updates: | |
| | | Recommendation: SUBMITTED | |
| | | File 3 - Starr | |

Report of Administrator of Insolvent Estate and Request for Final Discharge (Prob. C. 11600)

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| DOD: 10/10/11 <div style="border: 1px solid black; padding: 2px;"> Cont. from 070512, 071812 </div> <table style="width:100%; border-collapse: collapse;"> <tr><td style="width:10%;"></td><td style="width:40%;">Aff.Sub.Wit.</td><td style="width:50%;"></td></tr> <tr><td align="center"><input checked="" type="checkbox"/></td><td>Verified</td><td></td></tr> <tr><td></td><td>Inventory</td><td align="center">n/a</td></tr> <tr><td></td><td>PTC</td><td align="center">n/a</td></tr> <tr><td align="center"><input checked="" type="checkbox"/></td><td>Not.Cred.</td><td></td></tr> <tr><td align="center"><input checked="" type="checkbox"/></td><td>Notice of Hrg</td><td></td></tr> <tr><td align="center"><input checked="" type="checkbox"/></td><td>Aff.Mail</td><td align="center">w/</td></tr> <tr><td></td><td>Aff.Pub.</td><td></td></tr> <tr><td></td><td>Sp.Ntc.</td><td></td></tr> <tr><td></td><td>Pers.Serv.</td><td></td></tr> <tr><td></td><td>Conf. Screen</td><td></td></tr> <tr><td></td><td>Letters</td><td align="center">n/a</td></tr> <tr><td></td><td>Duties/Supp</td><td></td></tr> <tr><td align="center"><input checked="" type="checkbox"/></td><td>Objections</td><td></td></tr> <tr><td></td><td>Video Receipt</td><td></td></tr> <tr><td></td><td>CI Report</td><td></td></tr> <tr><td></td><td>9202</td><td align="center">n/a</td></tr> <tr><td align="center"><input checked="" type="checkbox"/></td><td>Order</td><td></td></tr> <tr><td></td><td>Aff. Posting</td><td></td></tr> <tr><td></td><td>Status Rpt</td><td></td></tr> <tr><td></td><td>UCC/JEA</td><td></td></tr> <tr><td></td><td>Citation</td><td></td></tr> <tr><td></td><td>FTB Notice</td><td align="center">n/a</td></tr> </table> | | Aff.Sub.Wit. | | <input checked="" type="checkbox"/> | Verified | | | Inventory | n/a | | PTC | n/a | <input checked="" type="checkbox"/> | Not.Cred. | | <input checked="" type="checkbox"/> | Notice of Hrg | | <input checked="" type="checkbox"/> | Aff.Mail | w/ | | Aff.Pub. | | | Sp.Ntc. | | | Pers.Serv. | | | Conf. Screen | | | Letters | n/a | | Duties/Supp | | <input checked="" type="checkbox"/> | Objections | | | Video Receipt | | | CI Report | | | 9202 | n/a | <input checked="" type="checkbox"/> | Order | | | Aff. Posting | | | Status Rpt | | | UCC/JEA | | | Citation | | | FTB Notice | n/a | <p>PUBLIC ADMINISTRATOR, Administrator, is Petitioner.</p> <p>Petitioner states:</p> <ol style="list-style-type: none"> PUBLIC ADMINISTRATOR was appointed as Administrator by the Court on 03/06/12. No Letters of Administration were ever issued because Petitioner was able to determine right away that there were no assets to marshal. The initial Petition for probate stated that there were two parcels of real property and bank accounts belonging to the estate. However, Petitioner has determined that the properties were deeded by the decedent and the bank accounts had beneficiary designations. Therefore, petitioner wishes to close the estate, because it is now insolvent. A Creditor's Claim was filed against the estate by David M. Camenson; however, the estate is insolvent and the claim cannot be paid. The estate is in a condition to be closed. <p>Petitioner prays for an Order that:</p> <ol style="list-style-type: none"> The Petition be settled, allowed and approved, and all acts of the Petitioner as Administrator be confirmed and approved; Due to the insufficiency of the estate, it is not possible to pay the outstanding debts of the estate and there will be no estate to distribute; and The Public Administrator be discharged as Administrator of the estate. <p>Objection to Report of Administrator of Insolvent Estate and Request for Final Discharge filed 06/28/12 by David L. Jimenez and Raymond Sandoval states that the assertion that the estate has no assets is false. Objectors state that the decedent held title to two vehicles (a 1995 Ford and 1987 Toyota) as well as numerous other personal property items. Objectors further state that the Public Administrator never contacted either objector (decedent's son and foster son and named beneficiaries in decedent's Will) or their attorney David Camenson. Had Petitioner contacted any of these individuals they would have discovered that the estate was not insolvent, or at least had some assets. Objectors request:</p> <ol style="list-style-type: none"> That the final report of Petitioner not be confirmed or approved; That the Public Administrator not be discharged as Administrator of the Estate at this time; and That the Public Administrator be ordered to continue its research regarding the assets of the estate by at least contacting each beneficiary who may have knowledge of such assets. <p align="center">Continued on Page 2</p> | <p>NEEDS/PROBLEMS /COMMENTS:</p> <p>CONTINUED FROM 07/18/12 Minute Order from 07/18/12 states: Counsel informs the Court that a bank account was discovered and the estate is not insolvent. Counsel requests a continuance.</p> <div style="border: 1px solid black; padding: 2px;"> Reviewed by: JF Reviewed on: 09/12/12 Updates: Recommendation: File 4 - Jimenez </div> |
| | Aff.Sub.Wit. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input checked="" type="checkbox"/> | Verified | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Inventory | n/a | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | PTC | n/a | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input checked="" type="checkbox"/> | Not.Cred. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input checked="" type="checkbox"/> | Notice of Hrg | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| | Sp.Ntc. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Pers.Serv. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Conf. Screen | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Letters | n/a | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Duties/Supp | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input checked="" type="checkbox"/> | Objections | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Video Receipt | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | CI Report | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | 9202 | n/a | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input checked="" type="checkbox"/> | Order | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Aff. Posting | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Status Rpt | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | UCC/JEA | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Citation | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | FTB Notice | n/a | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

Response to Objection to Report of Administrator of Insolvent Estate and Request for Final Discharge filed 07/02/12 by the Public Administrator/Petitioner states: The Deputy Public Administrator assigned to this matter was Noe Jimenez. He conducted the following investigation to determine the lack of assets in the estate:

- a. He twice went to the property at 3039 North 7th Street, Fresno, CA 93703 to meet with David L. Jimenez (decedent's son). He left his business card for David to contact him regarding the estate as Noe does not have David's phone number. Noe never received a return call from David or any other response to his business cards.
- b. He spoke by phone to Conrad (decedent's son), who provided details of the decedent's assets. Conrad reported that his father deeded the real property to him a couple of months before he died. Noe verified this transaction with Chicago Title. The employee handling the transaction had no concerns about the decedent's capacity to transfer title to his son.
- c. Conrad further reported that the decedent had also given him some personal items before his death, including his service revolver, badge, and similar items. Conrad further reports that when their father died, his brother David removed Raymond Sandoval (decedent's foster son) from the house on North 7th Street. Conrad reported that his father had some items in the residence but David would not allow him to enter the residence, even though the property belonged to him. Conrad confirmed that all personal items were transferred months before the decedent's death.
- d. Noe spoke with David Camenson, attorney for the Objectors, on three separate occasions. Mr. Camenson never asked about or offered information about any assets.
- e. Noe spoke to Conrad regarding the vehicles. Conrad confirmed that the decedent gave David's daughter, Janet Sellars, a Ford Windstar by signing a DMV form in July 2011. He further reported that the decedent gave Conrad's ex-wife, Anna DiFalco, the 1987 Toyota Cressida four years before the decedent died. Although the Objectors provided title to two vehicles, investigation revealed that neither belonged to the decedent at the time of his death.

Based on this information, Petitioner prays that:

1. The objections of David L. Jimenez and Raymond Sandoval be denied in their entirety; and
2. The Public Administrator's report be settled as prayed.

Response of Conrad Jimenez to Objection to Report of Administrator of Insolvent Estate and Request for Final Discharge filed 07/02/12 states: the two vehicles objectors refer to in their objection were not owned by the decedent at the time of his death as he had transferred ownership of both of them. The vehicle identified as a 1987 Toyota was transferred in 2009 to Anna Maria DiFalco and the 1995 Ford was transferred to Janet Sellers. Respondent further states that as to the "personal property" which is not specifically itemized in the Objection, he is personally aware that most all of the personal property of the decedent was either disposed of by the decedent or had little or no value at the date of his death. Even if there is any merit to the claim that the assets referred to in the Objection may be subject to probate court jurisdiction, all items referred to would be included within Probate Code §§ 13100-13116 as personal property that can be disposed of by the "Affidavit Procedure for Collection or Transfer of Personal Property". Therefore, even if the personal representative could assert ownership or control over any specific personal property asset, by his/her consent there would be nothing in a probate estate to administer. Further, the continuation of an essentially valueless estate could expose the estate to charges and expenses, which it should not incur and cannot afford. If the Objectors have any further information in reference to alleged "estate assets" they can and should communicate that information, with supporting documentation, to the public administrator. To the extent that the miscellaneous personal property described in the Objection is alleged to be the only basis to retain the personal representative, these are insufficient grounds to require the continuation of this probate proceedings. Respondent requests that the Objection be overruled and that the request for discharge by the public administrator be granted.

Amended Petition of Will and for Letters Testamentary; Authorization to Administer Under the Independent Administration of Estate Act

| | | |
|---|--|---|
| DOD: 07/01/12 | DEREK SIMMROSS and BRIGITTE GREEN, | NEEDS/PROBLEMS/COMMENTS: |
| | son and daughter/named Co-Executors without bond, are Petitioners. | Note: The court may require bond if the proposed personal representative resides outside California or for other good cause, even if the will waives bond, pursuant to California Rules of Court 7.201(b) and Probate Code 8571. |
| | Petitioner Derek Simmross is a resident of Sweden. | |
| | Full IAEA – OK | |
| | Will dated 06/13/96 | |
| | Residence: Fresno | |
| | Publication: The Business Journal | |
| | <u>Estimated Value of the Estate:</u> | |
| | Personal property - \$200,000.00 | |
| | Probate Referee: STEVEN DIEBERT | |
| Cont. from | | |
| <input type="checkbox"/> Aff.Sub.Wit. | | |
| <input checked="" type="checkbox"/> Verified | | |
| <input type="checkbox"/> Inventory | | |
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| | | Reviewed by: JF |
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| | | Updates: |
| | | Recommendation: |
| | | File 6B - Simmross |

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|-------------------------------------|----------------------|---|--|
| DOD: 01/19/12 | | <p>STEVEN R. THOMAS, II, son, and KRISTY HELM-THOMAS, daughter, are Petitioners.</p> <p>Petitioners state:</p> <ol style="list-style-type: none"> Petitioners are the children of Steven R. Thomas and interested in the STEVEN R. THOMAS FAMILY TRUST, dated 05/13/03, (the "Trust") created and executed by Steven R. Thomas as sole Settlor and sole Trustee. Steven R. Thomas ("decedent") was unmarried and administered the Trust in Fresno County until his death on 01/19/12. Upon his death, the Trust became irrevocable. Petitioners are not aware of any current, authorized acting successor trustee(s). Petitioners have been provided with a copy of the Trust which Petitioners believe has been altered by handwritten and initialed interlineations and/or changes to the terms of the Trust. Petitioners believe that such interlineations and/or changes is an invalid attempt to amend the Trust's successor trustees and successor beneficiaries and was not done by decedent before his death. There are no amendments to the Trust known to Petitioners except possibly the decedent's Will (pour over Will) dated 05/13/12 currently being probated in Fresno Superior Court Case No. 12CEPR00132 with Petitioners as Co-Executors. The decedent's Will also has handwritten interlineations and changes to the references made as to the decedent's children and named executors. At the time decedent executed both the Trust and his Will, Petitioner Steven R. Thomas, II was present and did not observe any handwritten alterations or modifications to either the Trust or Will. <p style="text-align: center;">Continued on Page 2</p> | <p>NEEDS/PROBLEMS/COMMENTS:</p> |
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| | | <p>Reviewed by: JF</p> <p>Reviewed on: 09/13/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 7 - Thomas</p> | |

5. Petitioners allege that under Article III, Section B of the Trust entitled "Original Trustees" decedent originally nominated Steven R. Thomas, II and Carl E. Thomas, in that order of priority, as successor trustees.
6. Petitioners further allege that under Article VI, Section A.2 of the Trust entitled "Distributions to Successor Beneficiaries" the decedent originally named the following individuals and the following respective interests as successor beneficiaries in the Trust as follows:
 - Steven R. Thomas II - 25%
 - Kristy Helm-Thomas - 25%
 - Kelby Renee Helm - 25%
 - Michael Garrett Davis - 25%
7. The Trust document, as altered, crossed out the names of Steven R. Thomas II and Carl E. Thomas as successor trustees and were replaced with the name of Kristy Helm-Thomas as the nominated successor trustee. However, Kristy Helm-Thomas's name was also crossed out and replaced with the name of Jeri Rard as successor trustee.
8. The Trust document, as altered, crissed out the originally named successor beneficiaries set forth above in paragraph 6 and replaced them and their respective interests as follows:
 - 100% to (wording undeterminable and crossed out) Grandkids
Coins will be sold later on for my grand childrens college"
9. Petitioners stipulate that the handwritten and initialed interlineations and changes to the original Trust's provisions for successor trustees and successor beneficiaries are not valid amendments to the Trust and that the decedent did not make the changes to the Trust.
10. Under Article I, Section B, Chapter 2, the Trust document provides that the Trust is revocable and amendable by the Settlor as provided in Article V, Section B, Chapter 2 entitled "Revocation and Amendment" that provides that the Settlor may, at any time amend any portion of the Trust by adding provisions or by altering or deleting provisions contained therein, and by delivering a signed statement of amendment to the trustee. Further, the Trust requires that such statement be attached to and made part of the Trust agreement.
11. California Probate Code § 15042 provides that: "Unless the trust instrument provides otherwise, if a trust is revocable by the settlor, the settlor may modify the trust by the procedure for revocation". Probate Code § 15401 sets forth the procedure for revocation in part as follows:

"A trust that is revocable by the settlor may be revoked in whole or in part by any of the following methods:

 - (1) By compliance with any method or revocation provided in the trust instrument.
 - (2) By a writing (other than a will) signed by the settlor and delivered to the trustee during the lifetime of the settlor. If the trust instrument explicitly makes the method of revocation provided in the trust instrument the exclusive method of revocation, the trust may not be revoked pursuant to this paragraph."
12. The Trust, pursuant to Article I, Section B and Article V, Section B provides for the exclusive method of amendment to the Settlor's Trust. Petitioners contend that the handwritten and initialed alterations by interlineations and changes made to the Trust's provisions for successor trustees and successor beneficiaries is an invalid amendment or modification to the Trust. Specifically, Petitioners assert that the alterations to the original Trust did not comply with the Trust's exclusive requirement for amendment or modification, to wit:
 - a. That the provisions added, altered or deleted were not made by the Settlor, or alternatively, are not entirely in the Settlor's own handwriting;
 - b. That no signed statement of amendment was prepared and executed by the Settlor;
 - c. That the Settlor did not deliver a signed statement of amendment to the Trustee;
 - d. That a signed statement of amendment was not attached to and made a part of the Declaration of Trust; and
 - e. The Will of Steven R. Thomas dated May 13, 2003 does not qualify as a writing under Probate Code § 15401 to revoke or amend the Trust.

Continued on Page 3

13. Petitioners seek an order that the alterations by handwritten interlineations and changes made to the Declaration of Trust's provisions for Successor Trustees and Successor Beneficiaries do not amend the Trust's provisions for Successor Trustee and Successor Beneficiaries, the attempted amendment is invalid, that the court appoints and confirms Steven R. Thomas, II and Kristy Helm-Thomas as successor co-trustees. Petitioners further request an order that the Court acknowledge and confirm the following individuals and the following respective interests in the Trust estate as the successor beneficiaries of the Trust as follows:
- Steven R. Thomas II - 25%
 - Kristy Helm-Thomas - 25%
 - Kelby Renee Helm - 25%
 - Michael Garrett Davis - 25%
14. The Trust provides in Article III, Section I, that no bond shall be required of a trustee in performance of its duties.
15. There is no other civil action pending with respect to the subject matter of this petition.

Petitioners pray for an order:

1. Declaring the handwritten alterations by interlineations and changes made to the Declaration of Trust are invalid as an amendment to the Declaration of Trust and are without effect.
2. Confirming that Jeri Rard is not the successor trustee of the Trust.
3. Confirming Steven R. Thomas, II and Kristy Helm-Thomas as the appointed successor co-trustees of the Trust, to serve without bond.
4. Instructing the trustees that, except as set forth below, the grandkids of Steven R. Thomas are not entitled to a share of the Trust.
5. Instructing trustees that the beneficiaries of the Trust are:
 - Steven R. Thomas II - 25%
 - Kristy Helm-Thomas - 25%
 - Kelby Renee Helm - 25%
 - Michael Garrett Davis - 25%; and
6. For costs of suit.

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|--------------------------|--|---|
| Age: 56 DOB: 06/30/56 | | NEEDS/PROBLEMS/COMMENTS: <p style="text-align: center;"><u>OFF CALENDAR</u> Fourteenth Account was settled and approved on 07/18/12</p> |
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| | | File 8 - Loveless |

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| Age: 3 years | | <p><u>THERE IS NO TEMPORARY.</u> <u>No temporary was requested.</u></p> <p>MARY J. CASTANEDA, maternal grandmother, is petitioner.</p> <p>Father: UNKNOWN (see note #1)</p> <p>Mother: ANTOINETTE CASTANEDA – personally served on 9/1/12.</p> <p>Paternal grandparents: unknown Maternal grandfather: Martin Castaneda – served by mail on 9/1/12.</p> <p>Petitioner states she has raised the minor since he was just over a year old. She has provided him with a safe, loving environment. The father has been incarcerated and has not ongoing relationship. Mother has a history of drug addiction and has not played an active parenting role.</p> <p>Court Investigator Jennifer Young's Report filed on 9/12/12</p> | <p>NEEDS/PROBLEMS/COMMENTS:</p> <p>This Petition is as to <u>JULIAN</u> only. Guardianship of Arrianna was previously granted on 9/10/2007.</p> <ol style="list-style-type: none"> Petition indicates the father is unknown. Guardianship questionnaire indicates the father is Salvador Flores. Need proof of personal service of the Notice of Hearing along with a copy of the Petition or Consent and Waiver of Notice or Declaration of Due Diligence on: <ol style="list-style-type: none"> Salvador Flores (father) Need proof of service of the Notice of Hearing along with a copy of the Petition or Consent and Waiver of Notice or Declaration of Due Diligence on: <ol style="list-style-type: none"> Paternal grandparents. | |
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| | | <p>Reviewed by: KT</p> <p>Reviewed on: 9/13/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 10 - Castaneda</p> | | |

Atty Rountree, L. Clarke (for paternal grandmother Kimberly Bird)

Atty Rusca, Rose Marie (for guardian/maternal grandmother Victoria Van Linge-Schuh)

Atty Bird, Seth (pro per Father)

Atty Gilbert, Cherisse (pro per Petitioner/mother)

Petition for Visitation

| | | | | |
|-------------------------------------|---------------|--|--|---|
| Age: 6 years | | <p>CHERISSE GILBERT, mother, is petitioner.</p> <p>VICTORIA VAN LINGE-SCHUH, maternal grandmother, was appointed guardian on 9/1/09.</p> <p>Father: SETH BIRD</p> <p>Mother: CHERISSE GILBERT</p> <p>Paternal grandfather: Kenneth Bird Paternal grandmother: Kimberly Bird Maternal grandfather: Keith Gilbert</p> <p>Petitioner states she is ready to become the mother of her son. She has moved out of her mother's home and has a place to live now. Petitioner would like visitation over night with her son.</p> <p>Mother proposes the following visitation schedule:</p> <ol style="list-style-type: none"> 1. Every weekend with alternate between the father and the mother. 2. Every Tuesday will alternate between the father and the mother. 3. Every fifth week Monday, Wednesday and Thursday will be alternating between the grandmothers. 4. Pick-ups and drop-offs will be done at Woods Elementary on weekdays. 5. Weekend pick-ups will be done at the end of the school day on Friday at the school and drop off will be on the next scheduled school day. 6. Holidays will be determined and shared by the parents. 7. All school work is to be kept by the party picking up on the day it goes home from class. Copies will be made for the other parties. 8. All parties will be given notice of all school events, including classroom parties and school pictures. 9. Both parents and both grandmothers will be listed on the emergency contact cards with preference given to the parents. <p style="text-align: center;">Please see additional page</p> | <p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> 1. Need Notice of Hearing. 2. Need proof of service of the Notice of Hearing on: <ol style="list-style-type: none"> a. Victoria Van Linge-Schuh (guardian/ maternal grandmother) b. Seth Bird (father) c. Kimberly Bird (paternal grandmother) d. Kenneth Bird (paternal grandfather) e. Keith Gilbert (maternal grandfather) f. L. Clark Roundtree (attorney for Kimberly Bird) g. Rose Marie Rusca (attorney for guardian/ maternal grandmother, Victoria Van Linge Schuh) | |
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Reviewed by: KT**Reviewed on:** 9/13/12**Updates:****Recommendation:****File 11 - Gilbert**

Note:

The guardian, Victoria Van Linge-Schuh and the paternal grandmother Kimberly Bird have an extensive visitation schedule that includes where the minor resides during the week, on weekends, holidays etc.

Visitation order per Order dated 10/18/11, in summary:

During the school year, Kimberly Bird (paternal grandmother), has visitation on the 2nd, 4th and 5th weekend of the month from Friday after school to Monday 9:00 (delivery at school). The visitation is extended to Tuesdays if Monday is a legal holiday.

Kimberly Bird (paternal grandmother) also has visits on alternating Tuesdays after school to Wednesdays (delivery at school).

Summer vacation Kimberly Bird and the guardian, Victoria Van Linge-Schuh have the minor with them on alternating weeks.

Holiday visits are also outlined in the visitation schedule.

Visitation order per Order dated 5/7/12, in summary:

Kimberly Bird (paternal grandmother) shall continue to have visitation with the minor on alternating weekends beginning after school on Friday (11:40 a.m.) until delivery to school on Monday morning at 8:10 a.m.

Father, Seth Bird, shall have visitation with the minor, every Tuesday after school (11:40 a.m.) until delivery to school on Wednesday morning at 8:10 a.m.

Father, Seth Bird is to be added to the emergency contact list along with Kimberly Bird with Kimberly Bird and Seth Bird given priority over all others.

All remaining orders not changed remained in full force and effect.

Minute Order dated 8/20/12 amended the 5/7/12 visitation order as follows:

The father is to have unsupervised visits with the minor Tuesday nights. Father is to pick-up the child on Tuesday and deliver him to school on Wednesday. The court further ordered that there be no violent video games, drugs or alcohol around the child during visitation.

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| <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td colspan="2">Frankie, 5</td></tr> <tr><td colspan="2">DOB: 06/02/07</td></tr> <tr><td colspan="2">Tabitha, 8</td></tr> <tr><td colspan="2">DOB: 10/31/03</td></tr> <tr><td colspan="2"> </td></tr> <tr><td colspan="2"> </td></tr> <tr><td colspan="2">Cont. from</td></tr> <tr><td> </td><td>Aff.Sub.Wit.</td></tr> <tr><td>✓</td><td>Verified</td></tr> <tr><td> </td><td>Inventory</td></tr> <tr><td> </td><td>PTC</td></tr> <tr><td> </td><td>Not.Cred.</td></tr> <tr><td>✓</td><td>Notice of Hrg</td></tr> <tr><td>✓</td><td>Aff.Mail</td></tr> <tr><td> </td><td>Aff.Pub.</td></tr> <tr><td> </td><td>Sp.Ntc.</td></tr> <tr><td> </td><td>Pers.Serv. x</td></tr> <tr><td>✓</td><td>Conf. Screen</td></tr> <tr><td>✓</td><td>Letters</td></tr> <tr><td>✓</td><td>Duties/Supp</td></tr> <tr><td> </td><td>Objections</td></tr> <tr><td> </td><td>Video Receipt</td></tr> <tr><td>✓</td><td>CI Report</td></tr> <tr><td> </td><td>9202</td></tr> <tr><td>✓</td><td>Order</td></tr> <tr><td> </td><td>Aff. Posting</td></tr> <tr><td> </td><td>Status Rpt</td></tr> <tr><td>✓</td><td>UCCJEA</td></tr> <tr><td> </td><td>Citation</td></tr> <tr><td> </td><td>FTB Notice</td></tr> </table> | Frankie, 5 | | DOB: 06/02/07 | | Tabitha, 8 | | DOB: 10/31/03 | | | | | | Cont. from | | | Aff.Sub.Wit. | ✓ | Verified | | Inventory | | PTC | | Not.Cred. | ✓ | Notice of Hrg | ✓ | Aff.Mail | | Aff.Pub. | | Sp.Ntc. | | Pers.Serv. x | ✓ | Conf. Screen | ✓ | Letters | ✓ | Duties/Supp | | Objections | | Video Receipt | ✓ | CI Report | | 9202 | ✓ | Order | | Aff. Posting | | Status Rpt | ✓ | UCCJEA | | Citation | | FTB Notice | <p style="text-align: center;"><u>TEMPORARY EXPIRES 09/19/12</u></p> <p>ANTONIO SANDOVAL and ALICIA SANDOVAL, paternal grandfather and step-grandmother, are Petitioners.</p> <p>Father: TONY SANDOVAL – deceased</p> <p>Mother: BRITTANI FANCIULLO</p> <p>Paternal grandmother: JOSEPHINE SANDOVAL – <i>Consent & Waiver of Notice filed 08/02/12</i></p> <p>Maternal grandfather: TRENT RUNYON – <i>Declaration of Due Diligence filed 08/02/12</i></p> <p>Maternal grandmother: SHARI FANCIULLO – <i>Consent & Waiver of Notice filed 08/02/12</i></p> <p>Petitioners state that Frankie's father is deceased and his mother is using drugs. Frankie is currently in their care and the mother agrees that he is better off with them until she can better care for him. The mother was arrested in January 2012 and is facing criminal charges. She was also evicted from her apartment.</p> <p>Court Investigator Julie Negrete filed a report on 09/12/12.</p> | <p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>THIS PETITION PERTAINS TO FRANKIE SANDOVAL ONLY.</u></p> <p><u>SHARON FANCIULLO, MATERNAL GRANDMOTHER'S, PETITION RE TABITHA IS SET FOR HEARING ON 10/10/12</u></p> <ol style="list-style-type: none"> Need proof of personal service at least 15 days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Temporary Guardian of the Person</i> <u>or</u> Consent and Waiver of Notice <u>or</u> Declaration of Due Diligence for: - Brittani Fanciullo (mother) <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <tr><td>Reviewed by: JF</td></tr> <tr><td>Reviewed on: 09/13/12</td></tr> <tr><td>Updates:</td></tr> <tr><td>Recommendation:</td></tr> <tr><td>File 13 – Sandoval & Lozano</td></tr> </table> | Reviewed by: JF | Reviewed on: 09/13/12 | Updates: | Recommendation: | File 13 – Sandoval & Lozano |
| Frankie, 5 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| ✓ | Conf. Screen | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| ✓ | Letters | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| | Objections | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Video Receipt | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| | Aff. Posting | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| | FTB Notice | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Reviewed by: JF | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Reviewed on: 09/13/12 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| Recommendation: | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| File 13 – Sandoval & Lozano | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

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|--------------------------|---------------|--|---|---|--|
| Age: 12 DOB: 10/17/99 | | GENERAL HEARING 11/06/12 | | NEEDS/PROBLEMS/COMMENTS: | |
| | | TERRI NELSON, maternal grandmother, is Petitioner. | | <p>1. Need proof of personal service of Notice of Hearing with a copy of the Petition for Appointment of Guardian of the Person at least 5 court days before the hearing <u>or</u> Consent and Waiver of Notice <u>or</u> Declaration of Due Diligence for:</p> <ul style="list-style-type: none"> - John Scott Chandler (father) - Trisha Nelson Chandler (mother) - Nathaniel Allen Chandler (minor) | |
| | | Father: JOHN SCOTT CHANDLER – <i>currently incarcerated</i> | | | |
| | | Mother: TRISHA NELSON CHANDLER | | | |
| | | Paternal grandfather: THOMAS W. CHANDLER | | | |
| | | Paternal grandmother: SANDY CHANDLER | | | |
| | | Maternal grandfather: LARRY NELSON | | | |
| | | Petitioner states that the minor's father is currently incarcerated and his mother is a drug user, has violent mood swings, and is abusive to both herself and the minor. The minor's mother threatens to remove the minor from petitioners home, where he has lived the majority of his life. The minor is suffering from his mother's emotional abuse and is having trouble in school. Petitioner states that the minor has expressed to her that he does not want to live with his mother and is afraid of her. Petitioner states that she believes the minor needs counseling to help cope with all of the abuse his mother has put him through. | | | |
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| Cont. from | | | | <p>Notes to Judge: Petitioner alleges that the mother is physically and emotionally abusive to her and the minor. It appears that the mother has lived in the home with Petitioner and the minor, but it is unclear whether she is currently living in the home. Petitioner states that the minor has expressed fear of his mother to her and stated that he does not want to live with her. The Court may wish to consider making an order that the mother not reside in the home with Petitioner and the minor as it appears the Petitioner often lets the mother return. Petitioner filed a petition for guardianship last year and later requested the petition be dismissed because the mother temporarily cleaned herself up. Petitioner now states that the mother's drug abuse and behavior has gotten out of control again, therefore she is petitioning for guardianship again.</p> <p>If petition is granted, please indicate expiration date at #9 of the Order.</p> | |
| | Aff.Sub.Wit. | | | | |
| ✓ | Verified | | | | |
| | Inventory | | | | |
| | PTC | | | | |
| | Not.Cred. | | | | |
| ✓ | Notice of Hrg | | | | |
| | Aff.Mail | | | | |
| | Aff.Pub. | | | | |
| | Sp.Ntc. | | | | |
| | Pers.Serv. | | X | | |
| ✓ | Conf. Screen | | | | |
| ✓ | Letters | | | | |
| ✓ | Duties/Supp | | | | |
| | Objections | | | | |
| | Video Receipt | | | | |
| | CI Report | | | | |
| | 9202 | | | | |
| ✓ | Order | | | | |
| | Aff. Posting | | | | |
| | Status Rpt | | | | |
| ✓ | UCCJEA | | | | |
| | Citation | | | | |
| | FTB Notice | | | | |
| | | | | <p>Reviewed by: JF</p> <p>Reviewed on: 09/13/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 15 - Chandler</p> | |